

State of California
Department of Industrial Relations
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, March 21, 2012
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: March 8, 2012

RE: Closed Session of the Board to be held on March 21, 2012

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. PAUL RUSH DBA CAL PAINTING, 10-R1D1-1268 THROUGH 1272

DECISIONS AFTER REMAND:

1. JOSEFF-HOLLYWOOD, 09-R6D2-3914 THROUGH 3919

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. 99 CENT STORE, 10-R2D4-3137

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2. A-1 MARTINS AUTOBODY & FRAME, 11-R6D7-0399
3. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
4. AGILENT TECHNOLOGIES, 11-R1D5-2840 THROUGH 2844
5. ALTAIR STRICKLAND, 11-R6D3-1823 AND 1824
6. AMANPUR INVESTMENTS LCC, 12-R3D3-0130 THROUGH 0135
7. ANDERSON PACIFIC ENGINEERING CONSTRUCTION INC., 10-R1D2-2965 AND 2966
8. ARB, INC., 10-R1D1-3267
9. ARMOUR STEEL CO., INC., 09-R2D1-0208
10. A TOUCH OF HEAVEN INC. 10-R2D1-3624
11. CACIQUE, INCORPORATED, 11-R6D2-1281 THROUGH 1285
12. JACK C CARMENITA DBA MR. ROOTER, 10-R1D2-3319 THROUGH 3322
13. CENTRAL VALLEY ALMOND ASSOCIATION, 11-R4D3-2472
14. CENTRAL VALLEY ENGINEERING & ASPHALT, INC., 08-R2D1-5001 AND 5002
15. CERTIFIED COATINGS COMPANY, 10-R2D1-0803
16. CITY OF SANTA ROSA FIRE DEPARTMENT, 11-R1D5-3135
17. CLARK'S HARDWOOD FLOORS INC., 11-R1D2-1191
18. CLEMENT HURTADO, 10-R6D7-2866
19. CONTRA COSTA COUNTY, PUBLIC WORKS DEPARTMENT, 10-R2D2-3177
20. COSCO FIRE PROTECTION, 11-R3D2-0415
21. CR&R INC., 10-R3D1-3528 THROUGH 3531
22. DAIRY QUEEN, 09-R2D1-1862 AND 1863
23. DALLO & COMPANY, INC. DBA JONATHAN'S MARKET, 10-R3D2-3784 AND 3785

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24. DENIM-TECH, LLC, 11-R6D2-1352 THROUGH 1359
25. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC., 11-R2D1-2431
26. DONAHUE SCHRIBER, 11-R3D2-1418
27. DUOCCUN AEROSTRUCTURES INC., 10-R4D1-3297
28. ECO FARMS AVOCADO COMPANY, 11-R3D2-2362 AND 11-R3D2-2451
29. EVERGREEN OIL, INC., 11-R6D3-1909 THROUGH 1912
30. FAIRMONT SIGN COMPANY, 11-R6D3-2759 AND 2760
31. J.H. FITZMAURICE, INC., 10-R1D4-2823 THROUGH 2825
32. FOLSOM READY MIX, INC., 09-R2D1-1367 THROUGH 1369
33. FREMONT UNIFIED SCHOOL DISTRICT, 10-R1D2-2361
34. FRICKE'S ELECTRICAL CONSTRUCTING, 10-R2D1-0552
35. FUTURE PLASTERING, 11-R6D7-2017
36. GB CONSTRUCTION, DBA GOLDENBEAR CONSTRUCTION CO.,
10-R4D1-3489 AND 3490
37. GEOENVIRONMENT TECHNOLOGIES, 11-R3D5-1268
38. GHILOTTI BROS. INC., 10-R1D1-2820
39. GOLDEN GATE BRIDGE HIGHWAY & TRANSPORTATION DISTRICT,
10-R1D1-3971 AND 3972
40. GNEKOW FAMILY WINERY, LLC, 10-R6D1-3225 THROUGH 3228
41. GRAVES 7 INC. DBA PREFERRED PLUMBING & DRAIN, 09-R2D1-3638 AND
3639
42. GREAT VALLEY LABOR SERVICES, 10-R2D5-3693
43. GUADALUPE DE LA TORRE DBA NEW GROWERS NURSERY, 10-R6D7-2959
AND 2960
44. HESS CONCRETE CONSTRUCTION CO., INC., 10-R2D2-2328

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45. HOUWELING NURSERIES OXNARD, INC., 11-R4D3-2181 AND 2182
46. HYDRO-SCIENCE OPERATIONS, INC., 10-R1D2-0389
47. IMAGING TECHNOLOGY DELIVERY DBA RHINOTEK COMPUTER PRODUCTS, 11-R3D5-1385
48. JJ CONSTRUCTION, 10-R4D1-3463 AND 3464
49. JONELL CONSTRUCTION, 11-R3D1-0505 AND 0506
50. KAISER PERMANENTE VALLEJO, 10-R2D2-3582
51. KUELPER CONSTRUCTION, 09-R2D1-2398 AND 2399
52. LAKSH ENTERPRISES, INC., 11-R3D6-2674
53. WENWAI LIN DBA GLOBIA DESIGN GROUP, 10-R6D7-2249 AND 2250
54. LIVE NATION ENTERTAINMENT, INC., 12-R1D3-0073
55. L&M INC. DBA DIABLO FORD OF PITTSBURG, 10-R2D2-3816
56. LEGACY FRAMERS, INC., 11-R2D2-1411 THROUGH 1412
57. LOS GATOS CONSTRUCTION COMPANY, INC. 10-R1D1-3135
58. MINERAL RESOURCES LLC, 11-R5D1-2240
59. MR. ROOFING, 11-R6D2-2883
60. CHARLES IAN MONTGOMERY CONSTRUCTION, 10-R6D7-2814 AND 2815
61. NATIONAL STEEL AND SHIPBUILDING COMPANY, 11-R6D2-0988
62. NET-COM SERVICES, 11-R1D3-3133 AND 3134
63. NETTO AG, INC., 10-R2D5-1134 AND 1135
64. M. KEVIN O'NEILL CONSTRUCTION CO. INC., 11-R6D2-2877
65. BENJAMIN LOPEZ ORTEGA DBA BENJAMIN LOPEZ FARM LABOR, 09-R2D4-4110 AND 4111
66. PACHECO BROTHERS, INC., 10-R6D7-2380

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67. PERFORMANCE TEAM FREIGHT SYSTEMS, INC., 11-R3D6-2973
68. DIEM T. PHAN DBA ALAMEDA AUTO BODY, 10-R6D7-2771
69. PIONEER AMERICAS LLC DBA OLIN CHLOR ALKALI PRODUCTS,
11-R6D3-0861 AND 0862
70. PIRANHA PRODUCTS, 11-R6D2-0219 THROUGH 0221
71. PLACER COUNTY WATER AGENCY, 11-R6D3-2149
72. POTTER VALLEY COMMUNITY UNIFIED SCHOOL, 10-R1D5-2777QC
FINANCIAL SERVICES, INC. DBA CALIFORNIA BUDGET FINANCE,
11-R4D3-1820
73. RAC NATIONAL PRODUCT SERVICE LLC, 11-R2D1-2075 AND 2076
74. NITA RICCARDI, INDIVIDUALLY AND DBA WINNING COLORS, WINNING
COLORS PAINTING, AND WINNING COLORS PAINTING & DECORATING,
11-R1D1-1722 AND 1723
75. RJL LABOR SERVICES, INC., 11-R6D7-2556
76. CESAR A. VERDUZCO RUIZ DBA BAJA BOYZ AUTO & TIRE REPAIR,
11-R6D5-2986
77. KUAY TIHN SAECHAO DBA KUAYS STRAWBERRY STAND, 11-R3D3-0416
78. SAF-T-CO SUPPLY, 11-R3D1-0102 AND 11-R3D1-0341
79. SAN GABRIEL VALLEY WATER COMPANY, 11-R3D6-2745
80. SANTA ROSA CITY SCHOOL DISTRICT, 10-R1D5-3503
81. SARA LAEE CORPORATION, 11-R3D6-2675
82. SATICOY BERRY FARMS, INC., 11-R4D3-2513 AND 2514
83. SDUSD-PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
84. SEACORE INDUSTRIAL INC., 11-R4D2-1229 THROUGH 1230
85. SERRA GARDENS, 11-R3D2-1054 AND 1055
86. SEVEN Cs ERECTORS, 11-R3D2-1416 AND 1417

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87. SF-PUC WASTEWATER ENTERPRISE, 10-R1D1-1841
88. SIERRA PACIFIC INDUSTRIES, 10-R2D1-0032
89. SIERRA PACIFIC INDUSTRIES, 10-R2D1-0264
90. SISKIYOU FOREST PRODUCTS, 11-R2D3-0988
91. S&K CONSTRUCTION GROUP DBA MCLELLAN CONSTRUCTION,
11-R3D2-1087
92. T.W. SMITH CO., 10-R1D2-3001
93. SONORAN ROOFING INC., 10-R1D4-3059
94. STONERIDGE PROPERTIES, LLC, 10-R1D4-2537
95. SUN GIR INC. DBA CARL'S JR. #7382, 10-R4D2-2846 AND 2847
96. SUNRISE EXCAVATING, 10-R2D1-0479 AND 0480
99. SUNSHINE METALS, INC., 11-R3D1-2030 AND 2031
100. HENRIETTA TAM DBA DRAGON SEED & BRIDAL PHOTOGRAPHY,
10-R6D7-3922
101. JEWEL & ARAXIE TAYLOR DBA AUTO SPORT PRO BODY SHOP,
11-R6D7-1764 AND 1765
102. TCR NC CONSTRUCTION, INC., 10-R2D1-1843
103. A. TEICHERT & SON INC. DBA TEICHERT AGGREGATES, 09-R5D1-3145
104. THE NEW FRENCH BAKERY, 11-R6D2-2880 THROUGH 2882
105. THERMA, CORP., 11-R1D3-0695
106. TOM'S DISCOUNT TIRE CENTER INC., 11-R3D5-1345
107. TWIN DRAGON RESTAURANT, 11-R3D1-0706
108. JOSE UMANA DBA JOSE UMANA EXCAVATING,
11-R4D2-1427 AND 1428
109. UNITED STATES PIPE & FOUNDRY COMPANY, LLC, 11-R1D4-0590

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110. UNIVERSAL CONCRETE BREAKERS, 11-R6D2-1324
111. VALLEJO CITY UNIFIED SCHOOL DISTRICT,
10-R2D2-2068 THROUGH 2070
112. VIC ROSS'S MASONRY, INC., 11-R3D2-0708 AND 0709
113. VINO FARMS INC., 10-R2D1-0959 THROUGH 0961
114. VINTAGE PAVING CO., INC., 09-R2D1-0504
115. WAGNER RUBBER PRODUCTS, 11-R4D2-1206 AND 1207
116. WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.,
10-R1D4-3350 AND 3351
117. WET WAYS AUTO BODY & PAINT, 10-R6D7-3345
118. WOLFGANG PUCK WORLDWIDE INC., 11-R4D1-1203
119. YASUDA TREE NURSERY, 11-R3D2-3068 AND 3069
120. ZIVCO CORPORATION, INC., DBA METAL BUILDING COMPANY,
10-R2D2-2223

ORDERS AFTER REMAND:

1. PRODIGY ELECTRIC, INC., 11-R4D3-0898 AND 0899
2. SUN SWEET DRYERS, 09-R2D1-0530

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. COFFMAN SPECIALTIES, INC., 10-R3D3-3532

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. UNDERGROUND CONSTRUCTION CO., INC., 09-R1D3-3518

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

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1. A-CO TEMPORARY POWER, 10-R4D1-3110 AND 11-R4D1-9206
2. ALIKA IKAIIKA ENTERPRISES INC., DBA ATTENTION TO DETAILS, INC., 10-R1D2-1191
3. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
4. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
5. AC TRANSIT, 08-R1D4-0135
6. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
7. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
8. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
9. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
10. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
11. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
12. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
13. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
14. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
15. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
17. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
18. COMMERCIAL METAL FORMING, 09-R3D1-1592
19. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
20. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
21. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038

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22. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
23. DELTA TRANSPORTATION, INC., 08-R2D1-4999
24. DESIGN BUILDERS, INC., 08-R4D4-1901
25. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
26. DUININCK BROS., INC., 06-R4D3-2871
27. DUKE PACIFIC, INC., 08-R3D3-574
28. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
29. EZ MIX, INC., 08-R4D3-1898
30. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219
31. FORTUNA IRON WORKS 06-R2D3-4222
32. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
33. HB PARKCO, 07-R4D2-1730 AND 1731
34. HOME DEPOT, 10-R3D6-3284
35. JENSEN PRECAST, 05-R2D1-2377
36. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
37. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
38. LION RAISINS, INC., 08-R2D5-2253 AND 2254
39. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
40. MARINE TERMINALS, 08-R6D2-1920
41. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
42. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
43. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
44. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667

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45. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
46. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
47. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
48. POUK & STEINLE, INC., 09-R3D3-0491
49. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
50. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
51. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
52. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
53. SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693
54. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
55. SMUD, 08-R2D1-4887 THROUGH 4889
56. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
57. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
58. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
59. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
60. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
61. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
62. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459 AND 0460

LEGISLATION:

(Discussion of pending legislation which may affect the Board).

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision

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after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-R5D1-3611)
7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
8. SMUD, 34-2010-80000723 (08-R2D1-4887)
9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010 (08-R2D1-3273)
13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
15. HOLLANDER HOME FASHION, BS-135444 (10-3704)
16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039

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(07-0275)

COURT OF APPEAL

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL:

(Issues regarding staff)

Any matter not completed at this Closed Session may be continued to subsequent meetings.